Government of Kerala
1979

Reg. No. KL/TV/12

KERALA GAZETTE

EXTRAORDINARY

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GOVERNMENT OF KERALA

Taxes (F) Department

NOTIFICATION

G O. (P) No. 98/79/TD. *Dated, Trivandrum, 6th August 1979.*

S. R. O. No. 904/79.—In exercise of the powers conferred by sub-section (1) of section 2 of the Kerala Public Services Act, 1968 (19 of 1968), the Government of Kerala hereby make the following amendments to the Special Rules for the Kerala Excise and Prohibition Service, published under Notification G.O. (P) No. 111/74/TD. dated the 9th September, 1974, as S.R.O. No. 688/74, in part I of the Kerala Gazette No. 39 dated the 24th September, 1974, namely:—

AMENDMENTS

In the said rules,—

(1) in sub-rule (1) of rule 2,—

(a) in the method of appointment specified for category (2), the words "of persons who have experience for a minimum period of four years as Circle Inspectors" shall be omitted;

(b) in the Note,—

(i) before the words "the post of Excise Circle Inspectors", the words "the post of Deputy Commissioners of Excise and" shall be inserted;

(ii) for the words "the said post", the words "the said posts" shall be substituted;

(2) in rule 5, sub-rule (1) shall be renumbered as sub-rule (2) thereof, and before sub-rule (2) as so renumbered, the following sub-rule shall be inserted, namely:—

"(1) No person shall be eligible for appointment to the post of Assistant Commissioner of Excise in category (2) unless he has had experience as Excise Circle Inspector for a period of not less than four years".

By order of the Governor,

R. Ramachandran Nair,
Special Secretary to Government.

Explanatory Note

(This note does not form part of the notification, but is intended to explain its general purport).

Provisions in the Kerala Excise and Prohibition Service Rules, ban promotion of ladies to the post of Assistant Secretary (Excise), Board of Revenue. It has been decided to remove this ban and to make ladies also eligible for promotion to the said post. This notification is intended to achieve the above purpose.

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GOVERNMENT OF KERALA

Law (LEG. PBN.) Department

NOTIFICATION

No. 7961/Leg. Pbn. 2/79/Law. *Dated, Trivandrum, 31st May,* 1979.

The following Act of Parliament, published in a Gazette of India Extraordinary, Part II-Section, 1 dated the 30th April, 1979 is hereby republished for general information. The Bill as passed by the Houses of Parliament received the assent of the President on the 30th April, 1979.

By order of the Governor,
K. Viswanathan Nair,
Law Secretary.

THE CONSTITUTION (FORTY-FOURTH AMENDMENT) ACT, 1978

Arrangement of Sections

Sections

1. Short title and commencement
2. Amendment of article 19.
3. Amendment of article 22.
4. Amendment of article 30·

33/3133/G.

SECTIONS

5. Omission of sub-heading after article 30.
6. Omission of article 31.
7. Amendment of article 31A.
8. Amendment of article 31 C.
9. Amendment of article 38.
10. Substitution of new article for article 71.
11. Amendment of article 74.
12. Amendment of article 77.
13. Amendment of article 83.
14. Substitution of new article for article 103.
15. Amendment of article 105.
16. Amendment of article 123.
17. Amendment of article 132.
18. Amendment of article 133.
19. Amendment of article 134.
20. Insertion of new article 134 A.
21. Amendment of article 139 A.
22. Amendment of article 150
23. Amendment of article 166.
24. Amendment of article 172.
25. Substitution of new article for article 192.
26. Amendment of article 194.
27. Amendment of article 213.
28. Amendment of article 217.
29. Amendment of article 225.
30. Amendment of article 226.
31. Amendment of article 227.
32. Amendment of article 239 B.
33. Omission of article 257 A.
34. Insertion of new Chapter IV in Part XII.
35. Amendment of article 329.
36. Omission of article 329 A.
37. Amendment of article 352.
38. Amendment of article 356.
39. Amendment of article 358.
40. Amendment of article 359.
41. Amendment of article 360.
42. Insertion of new article 361 A.
43. Amendment of article 371 F.
44. Amendment of the Ninth Schedule.
45. Amendment of the Constitution (Forty-second Amendment) Act, 1976.

THE CONSTITUTION (FORTY-FOURTH AMENDMENT) ACT, 1978

An
Act

further to amend the Constitution of India.

Be it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Constitution (Forty-fourth Amendment) Act, 1978.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

2. *Amendment of Article* 19.— In article 19 of the Constitution,—

(a) in clause (1),—

(*i*) in sub-clause (c), the word "and" shall be inserted at the end;

(*ii*) sub-clause (f) shall be omitted;

(b) in clause (5), for the words, brackets and letters "sub-clauses (d), (e) and (f)", the words, brackets and letters "sub-clauses (d) and (e)" shall be substituted.

3. *Amendment of Article* 22.— In article 22 of the Constitution.—

(a) for clause (4), the following clause shall be substituted, namely:—

'(4) No law providing for preventive detention shall authorise the detention of a person for a longer period than two months unless an Advisory Board constituted in accordance with the recommendations of the Chief Justice of the appropriate High Court has reported before the expiration of the said period of two months that there is in its opinion sufficient cause for such detention:

Provided that an Advisory Board shall consist of a Chairman and not less than two other members, and the Chairman shall be a serving Judge of the appropriate High Court and the other members shall be serving or retired Judges of any High Court:

Provided further that nothing in this clause shall authorise the detention of any person beyond the maximum period prescribed by any law made by Parliament under sub-clause (a) of clause (7).

Explanation.— In this clause, appropriate High Court" means,—

(i) in the case of the detention of a person in pursuance of an order of detention made by the Government of India or an officer or authority subordinate to that Government, the High Court, for the Union Territory of Delhi;

(ii) in the case of the detention of a person in pursuance of an order of detention made by the Government of any State, (other than a Union Territory), the High Court for that State; and

(iii) in the case of the detention of a person in pursuance of an order of detention made by the administrator of a Union Territory or an officer or authority subordinate to such administrator, such High Court as may be specified by or under any law made by Parliament in this behalf."

'(b) in clause (7),—

(i) sub-clause (a) shall be omitted;
(ii) sub-clause (b) shall be re-lettered as sub-clause (a); and
(iii) sub-clause (c) shall be re-lettered as sub-clause (b) and in the sub-clause as so re-lettered, for the words, brackets, letter and figure "sub-clause (a) of clause (4)", the word, brackets and figure "clause (4)" shall be substituted.

4. *Amendment of Article* 30.— In article 30 of the Constitution, after clause (1), the following clause shall be inserted, namely:—

"(1A) In making any law providing for the compulsory acquisition of any property of an educational institution established and administered by a minority, referred to in clause (1), the State shall ensure that the amount fixed by or determined under such law for the acquisition of such property is such as would not restrict or abrogate the right guaranteed under that clause.".

5. *Omission of sub-heading after article* 30.—The sub-heading "*Right to Property*" occurring after article 30 of the Constitution shall be omitted.

6. *Omission of article* 31.— Article 31 of the Constitution shall be omitted.

7. *Amendment of Article* 31*A*.— In article 31 A of the Constitution, in clause (1), for the words and figures "article 14, article 19 or article 31", the words and figures "article 14 or article 19" shall be substituted.

8. *Amendment of Article* 31*C*.— In article 31 C of the Constitution for the words and figures "article 14, article 19 or article 31", the words and figures "article 14 or article 19" shall be substituted.

9. *Amendment of Article* 38.— Article 38 of the Constitution shall be renumbered as clause (1) thereof and after the clause as so renumbered, the following clause shall be inserted, namely:—

"(2) The State shall, in particular, strive to minimise the inequalities in income, and endeavour to eliminate inequalities in status facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations.".

10. *Substitution of new article for article* 71.—For article 71 of the Constitution, the following article shall be substituted, namely:—

"71. *Matters relating to, or connected with, the election of a President or Vice-President* — (1) All doubts and disputes arising out of or in connection with the election of a President or Vice-President shall be inquired into and decided by the Supreme Court whose decision shall be final.

(2) If the election of a person as President or Vice-President declared void by the Supreme Court, acts done by him in the exercis and performance of the powers and duties of the office of President or Vice President, as the case may be, on or before the date of the decision of th Supreme Court shall not be invalidated by reason of that declaration.

(3) Subject to the provisions of this Constitution, Parliament may by law regulate any matter relating to or connected with the election of a President or Vice-President.

(4) The election of a person as President or Vice-President shall not be called in question on the ground of the existence of any vacancy for whatever reason among the members of the electoral college electing him.".

11. *Amendment of Article* 74.— In article 74 of the Constitution, in clause (1), the following proviso shall be inserted at the end, namely:—

"Provided that the President may require the Council of Ministers to reconsider such advice, either generally or otherwise, and the President shall act in accordance with the advice tendered after such reconsideration.".

12. *Amendment of article* 77.— In article 77 of the Constitution, clause (4) shall be omitted.

13. *Amendment of article* 83.— (1) In article 83 of the Constitution, in Clause (2), for the words "six years" in both the places where they occur, the words "five years" shall be substituted.

(2) The amendments made by sub-section (1) to clause (2) of article 83 shall apply also to the House of the People in existence on the date of coming into force of this section without prejudice to the power of Parliament with respect to the extension of the duration of that House under the proviso to that clause.

14. *Substitution of new article for article* 103.—For article 103 of the Constitution, the following article shall be substituted, namely:—

"103. *Decision on questions as to disqualifications of members.*— (1) If any question arises as to whether a member of either House of Parliament has become subject to any of the disqualifications mentioned in Clause (1) of article 102, the question shall be referred for the decision of the President and his decision shall be final.

(2) Before giving any decision on any such question, the President shall obtain the opinion of the Election Commission and shall act according to such opinion.".

15. *Amendment of article* 105.— In article 105 of the Constitution, in clause (3), for the words "shall be those of the House of Commons of the Parliament of the United Kingdom, and of its members and committees, at the commencement of this Constitution", the words, figures and brackets "shall be those of that House and of its members and committees immediately before the coming into force of section 15 of the Constitution (Forty fourth Amendment) Act, 1978" shall be substituted.

16. *Amendment of article* 123.—In article 123 of the Constitution, clause (4) shall be omitted.

17. *Amendment of article* 132.— In article 132 of the Constitution,—

(a) in clause (1), for the words " if the High Court certifies", the words, figures and letter "if the High Court certifies under article 134A" shall be substituted;

(b) clause (2) shall be omitted;

(c) in clause (3), the words "or such leave is granted," and the words "and, with the leave of the Supreme Court, on any other ground" shall be omitted.

18. *Amendment of article* 133.—In article 133 of the Constitution, in clause (1) for the words "if the High Court certifies—", the words, figures and letter " f the High Court certifies under article 134A—" shall be substituted.

19. *Amendment of article* 134.—In article 134 of the Constitution, in sub-clause (c) of clause (1), for the word "certifie ", the words, figures and letter "certifies under article 134 A" shall be substituted.

20. *Insertion of new article* 134*A*.—After article 134 of the Constitution, the following article shall be inserted, namely:—

"134A. *Certificate for appeal to the Supreme Court.*— Every High Court passing or making a judgement, decree, final order, or sentence, referred to in clause (1) of article 132 or clause (1) of article 133, or clause (1) of article 134,—

(a) may, if it deems fit so to do, on its own motion; and

(b) shall, if an oral application is made, by or on behalf of the party aggrieved, immediately after the passing or making of such judgement, decree, final order or sentence,

determine, as soon as may be after such passing or making, the question whether a certificate of the nature referred to in clause (1) of article 132, or clause (1) of aricle 133 or, as the case may be, sub-clause (c) of clause (1) of article 134, may be given in respect of that case.".

21. *Amendment of article* 139 *A*.— In article 139 A of the Constitution, for clause (1), the following clause shall be substituted, namely:—

"(1) Where cases involving the same or substantially the same questions of law are pending before the Supreme Court and one or more High Courts or before two or more High Courts and the Supreme Court is satisfied on its own motion or on an application made by the Attorney-General of India or by a party to any such case that such questions are substantial questions of general importance, the Supreme Court may withdraw the case or cases pending before the High Court or the High Courts and dispose of all the cases itself:

Provided that the Supreme Court may after determining the said questions of law return any case so withdrawn together with a copy of its judgement on such questions to the High Court from which the case has been withdrawn, and the High Court shall on receipt thereof, proceed to dispose of the case in conformity with such judgement.".

22. *Amendment of article* 150.— In article 150 of the Constitution, for the words "after consultation with", the words " on the advice of " shall be substituted.

23. *Amendment of article* 166.— In article 166 of the Constitution, clause (4) shall be omitted.

24. *Amendment of article* 172.— (1) In article 172 of the Constitution, in clause (1), for the words "six years" in both the places where they occur, the words "five years" shall be substituted.

(2) The amendments made by sub-section (1) to clause (1) of article 172—

(a) shall not apply to any existing State Legislative Assembly the period of existence whereof as computed from the date appointed for its first meeting to the date of coming into force of this section (both dates inclusive) is more than four years and eight months but every such Assembly shall, unless sooner dissolved, stand dissolved on the expiry of—

(i) a period of four months from the date of coming into force of this section; or

(ii) a period of six years from the date appointed for its first meeting,

whichever period expires earlier;

(b) shall apply to every other existing State Legislative Assembly without prejudice to the power of Parliament with respect to the extension of duration of such Assembly under the proviso to the said clause (1).

Explanation I.— In its application to the Legislative Assembly of the State of Sikkim referred to in clause (b) of article 371F of the Constitution, this sub-section shall have effects as if—

(i) the date appointed for the first meeting of that Assembly were the 26th day of April, 1975; and

(ii) the references in clause (a) of this sub-section to "four years and eight months" and "six years" were references to "three years and eight months" and "five years" respectively.

Explanation II.—In this sub-section, "existing State Legislative Assembly" means the Legislative Assembly of a State in existence on the date of coming into force of this section.

25. *Substitution of new article for article* 192. — For article 192 of the Constitution, the following article shall be substituted, namely:—

"192. *Decision on questions as to disqualifications of members.*—(1) If any question arises as to whether a member of a House of the Legislature of a State has become subject to any of the disqualifications mentioned in clause (1) of article 191, the question shall be referred for the decision of the Governor and his decision shall be final.

(2) Before giving any decision on any such question, the Governor shall obtain the opinion of the Election Commission and shall act according to such opinion.".

26. *Amendment of article* 194. — In article 194 of the Constitution, in [c]lause (3), for the words "shall be those of the House of Commons of the [P]arliament of the United Kingdom, and of its members and committees, at [t]he commencement of this Constitution", the words, figures and brackets "shall be those of that House and of its members and committees immediately [b]efore the coming into force of section 26 of the Constitution (Fortyfourth [A]mendment) Act, 1978" shall be substituted.

27. *Amendment of article* 213.— In article 213 of the Constitution, [c]lause (4) shall be omitted.

28. *Amendment of article* 217.—In article 217 of the Constitution, in [c]lause (2),—

(*a*) in sub-clause (b), the word "or" occurring at the end shall be [o]mitted;

(*b*) sub-clause, (c) shall be omitted;

(c) in the *Explanation*, clause (*a*) shall be re-lettered as clause (*aa*) and before clause—(*aa*) as so re-lettered, the following clause shall be inserted, namely:—

"(*a*) in computing the period during which a person has held judicial office in the territory of India, there shall be included any period, after he has held any judicial office, during which the person has been an advocate of a High Court or has held the office of a member of a tribunal or any post, under the Union or a State, requiring special knowledge of law;".

29. *Amendment of article* 225.—In article 225 of the Constitution, the following proviso shall be inserted at the end, namely:—

"Provided that any restriction to which the exercise of original jurisdiction by any of the High Courts with respect to any matter concerning the revenue or concerning any act ordered or done in the collection thereof was subject immediately before the commencement of this Constitution shall no longer apply to the exercise of such jurisdiction".

30. *Amendment of article* 226.—In article 226 of the Constitution,—

(*a*) in clause (1), for the portion beginning with the words "writs in the nature of *habeas coups* *mandamus*, prohibition, *quo warranto* and *certiorari*, or any of them" and [e]nding with the words "such illegality has resulted in substantial failure of [j]ustice.", The following shall be substituted, namely:—

"writs in the nature of *habeas, corpus, mandamuo,* prohibition, *quo warrants* and *certiorari*, or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose;";

(b) for clauses (3), (4), (5) and (6), the following clause shall be substituted, namely:—

"(3) Where any party against whom an interim order, whether by way of injunction or stay or in any other manner, is made on, or in any proceedings relating to, a petition under clause (1), without—

(*a*) furnishing to such party copies of such petition and all documents in support of the plea for such interim order; and

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GOVERNMENT OF KERALA

General Education (C) Department

NOTIFICATION

No. 49552/C3/79/G. Edn. *Dated, Trivandrum, 1st August 1979.*

The following are the supplementary select lists for 1979-80, as prepared by the Departmental Promotion Committee and approved by the Government, of Officers for promotion to the categories of Deputy Directors and District Educational Officers in the General Education Department.

I. *Category of Deputy Directors.*

(1) Sri P. P. Madhavan Namboodiri

(2) Sri N. M. Neelakantan Nair

II. *Category of District Educational Officers.*

(1) Sri P. Unnikrishna Warrier

(2) Smt. P. Aisha

By order of the Governor,

S. NAGARAJAN,
Special Secretary to Government.

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